

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

THE GREAT AMERICAN RESTAURANT  
COMPANY,

Plaintiff,

V.

DOMINO'S PIZZA LLC, DOMINO'S, INC.,  
and DOMINO'S PIZZA, INC.

Defendant.

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Case No. 4:07-CV-52

**MEMORANDUM ADOPTING REPORT AND**  
**RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the above-referenced civil action, this court having heretofore ordered this case be referred to the United States Magistrate Judge for all pretrial purposes.

The report of the United States Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of the Defendants' Motion for Summary Judgment and the Plaintiff's Motion for Summary Judgment, has been presented for consideration. The court, having made a *de novo* review of the objections raised by the Plaintiff thereto, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit. Therefore, the court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court. It is, therefore,

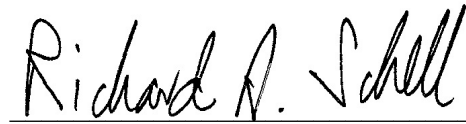
**ORDERED** that the Magistrate Judge's Report is **ADOPTED** as the opinion of the court.

It is further

**ORDERED** that the Defendants' Motion for Summary Judgment is **GRANTED IN PART**.

With the exception of the Plaintiff's claim for damage to business reputation pursuant to TEX. BUS. & COM. CODE §16.29, the Plaintiff's remaining claims are dismissed with prejudice. The Plaintiff's claim for damage to business reputation pursuant to TEX. BUS. & COM. CODE §16.29 is dismissed without prejudice to the refiling of the same in the appropriate state court. The Plaintiff's Motion for Summary Judgment is **DENIED AS MOOT**.

**SIGNED this the 28th day of May, 2008.**

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive, flowing style. The first name "Richard" is written with a capital 'R' and a dot over the 'i'. The last name "Schell" is written with a capital 'S' and a dot over the 'i'. The signature is positioned above a horizontal line.

RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE